

ODNI FOIA HANDBOOK

INTRODUCTION

The goal of the ODNI's Freedom of Information Act/Privacy Act office is to keep the public better informed about the DNI's role to oversee and coordinate the foreign and domestic activities of the Intelligence Community (IC). Because of the ODNI's need to comply with the national security laws of the United States, some information, including documents, or portions thereof, cannot be released to the public. Nonetheless, it is the goal of the ODNI to release, when possible, a substantial amount of information following review.

The Freedom of Information Act (FOIA), found in Section 552 of Title 5 of the United States Code, generally provides that any person has a right, enforceable in court, to request access to federal agency records. FOIA requires federal agencies to produce such records when requested, provided that the records (or portions thereof) are not exempt from disclosure pursuant to the FOIA's exemptions.

The Privacy Act (PA), found in Section 552a of Title 5 of the United States Code, balances the government's need to collect, maintain, use, and disclose personal information about individuals with the rights of those individuals to be protected against unwarranted invasions of privacy. The PA provides citizens and legal permanent residents the right to obtain copies of records maintained on him/her if such information is not exempt from release under the provisions of the law.

The ODNI began operations on 21 April 2005. If you are seeking records from other agencies within the Intelligence Community you must write to them directly. For more information concerning our activities and the types of records we may have, please review our website, www.dni.gov.

1. HOW TO MAKE A REQUEST

The purpose of this handbook is to provide you with the procedures for making a FOIA or PA request to the ODNI. The process is not complicated and you are not required to use any particular form.

Requests for information from any ODNI component or office must be sent to the following address:

FOIA/Privacy Act Office
Office of the Director of National Intelligence (ODNI)
Washington, DC 20511

Requests may also be faxed to (703) 275-1299. You may also send a request by email to DNI-FOIA@dni.gov.

Requests for information should be as specific as possible to ensure an accurate search for responsive material. A request that does not reasonably describe records cannot be processed and the requester will be contacted for clarification.

The FOIA does not require agencies to answer questions. Only requests for documents will be processed by the FOIA office.

Requests under the Privacy Act must include either a notarized statement of identity, or the following statement above your signature:

“I declare under penalty of perjury that the foregoing is true and correct. Executed on (date).”

2. FEES

There is no initial fee to file a FOIA request and in the majority of requests made to the ODNI, no fees will ever be charged. Under the FOIA, however, the government is entitled to charge fees to certain types of requesters. Each requester will be placed in one of the following categories:

Commercial: Requesters who seek information for a use or purpose that furthers their commercial, trade, or profit interest. Commercial requesters pay all fees for search, review, and duplication.

Educational/Non-Commercial Scientific: Institutions of education, including preschools, elementary or secondary schools, and institutions of higher learning, or institutions operating solely for the purpose of conducting scientific research. Records must be sought for educational/academic/scientific research purposes. Educational/Non-Commercial Scientific requesters pay only duplication fees. The first 100 pages are provided at no cost.

News Media: Any person gathering news for an entity organized and operated to publish or broadcast news to the public. News media pay only duplication fees. Again, the first 100 pages are provided at no cost.

Other: Requesters who do not fall into the other categories are considered to be “other” in status. These individuals normally make requests for records for their personal use. “Other” requesters receive two hours of search time, the first 100 pages duplication, and all review at no cost.

ODNI will consider each FOIA request a firm commitment to pay any and all fees up to \$25. However, a request letter may include a specific statement regarding the amount of fees the requester is willing to pay. Requesters are encouraged to include such a statement as it may speed up the processing of the FOIA request. This does not mean fees will automatically be assessed. An individual may also request a fee waiver. Fee

waivers may be granted when disclosure of the information requested is in the public interest because it would contribute significantly to public understanding of the operations or activities of the government. The requester must demonstrate an ability to disseminate the information, and there must be no commercial interest to the requester in the disclosure of information.

4. HOW SOON TO EXPECT A RESPONSE

Every attempt to respond within the 20 day timeframe established by the FOIA will be made. However, because of the complexity of records maintained by the ODNI, it will not always be possible for this agency to meet that requirement. Pursuant to the Open Government Act of 2007, FOIA requesters may contact an agency's FOIA Requester Service Center to check on the status of their FOIA requests. The ODNI Service Center can be reached at 703-275-FOIA (3642).

5. ELIGIBILITY FOR EXPEDITED PROCESSING

In some cases, a requester may ask for expedited processing. ODNI will review all such requests. A requester must demonstrate one of the following compelling needs to be granted expedited processing:

- Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.
- An urgency to inform the public concerning an actual or alleged Federal Government activity, if made by an individual primarily engaged in disseminating information.

6. FOIA EXEMPTIONS

The FOIA allows the government to protect information that falls under one of its exemptions. The exemptions are cited in the Act as 5 U.S.C. § 552(b)(1) through (b)(9).

(b)(1) – records are currently and properly classified in the interest of national security.

(b)(2) – records that relate solely to the internal rules and practices of an agency.

(b)(3) – records that are protected by another law that specifically exempts the information from public release.

(b)(4) – trade secrets and commercial or financial information obtained from an individual or business which would cause substantial competitive harm to the submitter if disclosed.

(b)(5) – inter-agency or intra-agency documents which would not be available by law to a party in litigation with the agency (e.g., records protected by the deliberative process, attorney-client or attorney-work product privileges).

- (b)(6) – records which if released would result in a clearly unwarranted invasion of personal privacy.
- (b)(7) – investigatory records or information compiled for law enforcement purposes.
- (b)(8) – records used by agencies responsible for the regulation or supervision of financial institutions.
- (b)(9) – records containing geological and geophysical information regarding wells.

7. HOW TO APPEAL

A requester has the right to appeal a denial of a document or any portion of that document. Failure of the ODNI to find records may also be appealed. Appeals must be submitted within 45 days to the following address:

FOIA/Privacy Act Office
Office of the Director of National Intelligence (ODNI)
Washington, DC 20511

8. ODNI FOIA ELECTRONIC READING ROOM

ODNI maintains an electronic reading room on its public website, www.dni.gov. Documents falling under subsection (a)(2) of the FOIA are posted there, including agency policy statements and records previously released under the FOIA.

9. COMPLAINTS AND SUGGESTIONS

The ODNI Chief FOIA Officer, as defined by the Open Government Act of 2007, has agency-wide responsibility for compliance with the FOIA. You may contact the ODNI Chief FOIA Officer at the following address with any complaints or suggestions regarding our FOIA process:

Chief FOIA Officer
Office of the Director of National Intelligence (ODNI)
Washington, DC 20511